

Department of State Revenue

Audit Gram Number IR-007

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**Notice:** Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**Issue**

**Modification of Federal Income Tax – Assessment.**

**Authority:** IC 6-3-4-6(b), IC 6-8.1-5-2(f), 45 IAC 3.1-1-94 (FN1 Current rule does not reflect the 1998 amendment), 26 CFR § 301.7430 and 601.105

**IC 6-3-4-6. Copies of federal returns; notice of modification...**

(b) Each taxpayer, ~~except a resident individual~~, shall notify the department of any modification of:

(1) a federal income tax return...or

(2) the taxpayer's federal income tax liability...

The taxpayer shall file the notice, on the form prescribed by the department, within one hundred twenty (120) days after the modification is made.

~~[Text prior to 1998 amendment effective Jan. 1, 1998]~~

**IC 6-8.1-5-2.. Time limitation on issuing proposed assessment...**

(f) If a taxpayer and the... (IRS)... consent in writing to an assessment of any federal income tax deficiency after...(the federal limitation period)..., then the date by which the department must issue a proposed assessment... is extended to six (6) months after the end of the period designated in the consent agreement.

[1989 amendment effective through December 31, 1997]

**IC 6-8.1-5-2. Time Limitation of issuing proposed assessment.**

(f) If a taxpayer's federal income tax liability... is modified... then the date by which the department must issue a proposed assessment... is extended to six (6) months after the date on which the notice of modification is filed with the department by the taxpayer.

[1997 amendment added new sec. (f) effective Jan. 1, 1998]

**I. General Statement.**

Every taxpayer, including a resident individual after January 1, 1998, is required to notify the department within 120 days of a modification of a federal income tax return or federal income tax liability.

If a modification to a taxpayer's federal tax return does not result in an apparent change in state tax liability, [FN2 E.g., Schedule A, individual itemized deductions, federal tax credits, adjustments to certain

loss carryback, etc.] the Department retains the right to evaluate all federal modifications and the taxpayer's responsibility to notify the Department is not waived.

## II. "On The Form Prescribed By The Department" – Defined.

The form prescribed to notify the Department of a federal income tax modification is an amended Indiana income tax return, or if no income tax return has been filed, an original income tax return.

## III. The Date "Modification Is Made" – Defined.

### A. Internal Revenue Service Field Examination.

A modification of a taxpayer's federal income tax return or liability is made on the date the taxpayer is furnished with a report of the examiner's findings, as approved after appropriate IRS review, including an explanation of the appeals process. This event is generally referred to as the receipt of a "30 day letter" (Letter 950). [FN3 See CFR § 301.7430 and 601.105. "Internal Revenue Service, Procedure and Administration"]

A modification of a taxpayer's federal income tax return or liability is made if, at the completion of a field examination, the taxpayer executes Form 870, "Consent to Assessment", or such other form indicating taxpayer agreement.

### B. Internal Revenue Service Office Examination.

A modification to a taxpayer's federal income tax return or liability is made on the date the taxpayer is furnished with a report of the office examiner's findings including an explanation of the appeals process.

## IV. Time Limitation– Assessment. IC 6-8.1-5-2(f)

A. Prior to **January 1, 1998** – The Code provides no time limit within which the Department must issue a proposed assessment after having been notified by the taxpayer of a federal modification with the following exception.

Prior to the extensive revision of IC 6-8.1-5-2(f) effective January 1, 1998, this Code section extended the Department's assessment period to a date 6 months after the date on which a Federal statute waiver [FN4 Form 872, "Consent to Extend Time to Assess Tax"] expires. After January 1, 1998, the taxpayer's execution of Federal form 872, or its equivalent, is not relevant.

B. **Effective January 1, 1998** – The Department has six (6) months after the date the taxpayer notifies the Department of a federal modification to issue a proposed assessment.

### 1. Indiana Three Year Limitation – If the date on which the taxpayer notifies the

Department occurs prior to the expiration of the normal 3 year limitation period for

assessment of such period, [FN5 IC 6-8.1-5-2(a)] the Department will have the latter of a date 6 months after the date of notification or the expiration date of the period's assessment period.

2. Indiana Extension of Time – If the date on which the taxpayer notifies the Department occurs prior to the expiration of a date agreed upon between the Department and the taxpayer extending the assessment date [FN6 Form AD-10, "Agreement to Extension of Time", authorized by IC 6-8.15-2(e)] for such period, the Department will have the latter of a date 6 months after the date of notification or the expiration date of the period's extended assessment period.

## V. Federal Audit, No Additional Liability.

If the federal return filed for a period for which the Indiana 3 year statute of limitations has expired, is examined by Internal Revenue Service and the result is a modification of the federal return without a change in federal tax liability, any effect of such modification on the Adjusted Gross Income Tax liability for that period may be calculated and assessed.

VI. Failure To Notify The Department.

A. If the taxpayer fails to notify the Department of a federal modification there is no time limit within which the Department must issue a proposed assessment.

B. If the Department is informed of a federal modification by means other than the prescribed forms described in section II above, there is no time limit within which the Department must issue a proposed assessment.